

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TELANO L. WHITE,)	
)	
Petitioner,)	Civil Action No. 16-1337
)	
v.)	Judge Cathy Bissoon
)	Magistrate Judge Lisa Pupo Lenihan
WARDEN MONICA RECKTENWALD,)	
)	
Respondent.)	

AMENDED MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On January 11, 2017, the Magistrate Judge issued a Report (Doc. 10) recommending that the petition for a writ of habeas corpus, and the certificate of appealability, be denied. Service of the Report and Recommendation was made. On January 31, 2017, Petitioner filed untimely Objections to the Report and Recommendation. (Doc. 13).

After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections thereto, the Court makes the following findings:

In his Objections, Petitioner “challenges the sufficiency of the evidence that the DHO relied upon in finding that Petitioner violated Codes 115 and 205.” (Doc.13 at 1). Specifically, Petitioner claims that DHO failed to present “some evidence” to support the disciplinary decision. (*Id.*). The Court disagrees. As the Magistrate Judge found in her Report and Recommendation, in making the decision that Petitioner committed the prohibited acts of “Destroying Any Item During a Search” and “Possession of Anything Not Authorized,” the

DHO relied upon the incident report by Officer D. Smith, which stated that when he began a pat search on another inmate, he noticed that Petitioner had something in his right hand that Petitioner was attempting to drop over the railing, and that Petitioner put the item in his mouth when instructed to put his hands on the wall by the officer. (See Doc. 8-8; Doc. 8-5). The DHO also cited to Petitioner's admitted possession of 100 books of stamps to support his finding that Petitioner committed the offense of "Possession of Anything Not Authorized." (Doc. 8-8). Thus, the Court finds that the DHO's findings were sufficiently based on "some evidence," and Petitioner's arguments are without merit.

For the reasons stated in the Report and herein, the following Order is entered:

The Petition of Telano L. White for a writ of habeas corpus (**Doc. 4**) is **DISMISSED** and a certificate of appealability is **DENIED**. The Report and Recommendation of the Magistrate Judge, dated January 11, 2017, hereby is adopted as the Opinion of the District Court.

IT IS SO ORDERED.

January 31, 2017

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

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